

FUR LABELING

JUNE 11, 1951.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. O'HARA, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

(To accompany H. R. 2321)

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 2321) to protect consumers and others against misbranding, false advertising, and false invoicing of fur products and furs, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 5, line 17, strike out "or" and insert after the words "contract carrier" the following: "or freight forwarder".

Page 7, line 4, after "paragraph" strike out the comma and all that follows down through the word "processed" in line 6.

Page 8, line 6, strike out beginning with the word "unless" down through the comma in line 8.

Page 9, line 9, strike out beginning with the word "unless" down through the comma in line 11.

This proposed legislation has the approval of the Federal Trade Commission and the Department of Agriculture, as will appear from letters dated February 16, 1951, and April 12, 1951, respectively. These communications are printed below in this report.

GENERAL STATEMENT

The bill is designed to protect consumers and others from widespread abuses arising out of the frequent practice in the fur trade of using, in advertisements and otherwise, in a false or misleading manner, foreign animal names and glamorous, fictitious designations for furs and fur products.

The bill is generally modeled after the Wool Products Labeling Act of 1939 and requires mandatory invoicing of furs and labeling

of fur products moving in interstate or foreign commerce to show the name of the animal that produced the fur as set forth in the fur products name guide; the fact that the garment contains used fur if such is the case; the fact that the fur is dyed or bleached if such is the case; and the fact that the fur product is composed of paws, tails, bellies, or waste fur if such is the case. The bill further provides that furriers who manufacture fur products from furs received in interstate commerce shall be subject to the provisions of the act.

It further requires that when furs or fur products are advertised in such commerce, or after having been shipped and received in such commerce, these vital facts be truthfully stated in the advertising.

The bill makes it unlawful and declares it an unfair and deceptive act and practice within the meaning of the Federal Trade Commission Act to market in interstate or foreign commerce either furs or fur products which are not respectively invoiced and labeled to show the true name of the animal, and other factual information affecting the value of both furs and fur products.

The legislation is to be administered by the Federal Trade Commission and its enforcement provisions closely follow those provided for in the Wool Products Act of 1939, which is administered by that agency. The bill further provides that the Federal Trade Commission shall set up a register of names known as Fur Products Name Guide which is to be used by the trade in complying with the provisions requiring the showing of the name of the animal whose fur is used.

In addition to the corrective action provided for by means of Federal Trade Commission cease-and-desist-order procedure, the bill also provides criminal penalties for willful violation of certain of its provisions.

The fur trade is a large and growing segment of American business. Latest available figures indicate that the American public is buying the output of this industry at the rate of \$500,000,000 a year.

While furs are natural products, they are peculiarly susceptible to dyeing and other manipulations and processing which tend to change their appearance. Such manipulations are commonly undertaken for the purpose of simulating more expensive furs in appearance. This practice makes it easily possible for the purchasing public to be misled and deceived. This legislation will go far toward protecting consumers.

Incidentally, this legislation affords protection to our domestic infant fur-farming industry. This industry breeds such high-grade fur animals as, for example, mink and silver fox. The use of the names of these animals, in a deceptive and misleading manner, in connection with cheap furs constitutes a method of competition which unduly burdens this industry. The legislation would make it unlawful to use the name of any animal other than the true name of the animal that produced the fur. While truthful and nondeceptive information and statements that are not required by the law to be placed on the label or in advertisements and invoices may be set forth in addition to the required information, the Commission, in order to prevent confusion and deception may issue regulations, pursuant to section 8 (b), governing the manner and form in which such nonrequired information and statements may appear. Thus, the use of such designation as, for example, "mink blended coney," which is rabbit fur processed to resemble mink, would constitute an unfair practice.

The Federal Trade Commission, in its work under the Federal Trade Commission Act, through its trade practice conference procedure, has endeavored to correct some of these practices. Many cases, have come before the Commission where correction has been obtained either through formal action or voluntary stipulation. However, these practices are so widespread and are of such a nature that specific legislation on the matter, such as is embodied in the bill, is considered necessary.

With respect to furs, the information required by this legislation is to be passed on by the means of invoices. In respect to fur products, labeling is required which begins with the manufacturer of the fur product. Removal of the required label is forbidden until the article reaches the ultimate consumer. However, a wholesaler or retailer who sells, advertises, or offers for sale in commerce, or processes for commerce, a fur product, may substitute his own label for that of the manufacturer.

LEGISLATIVE HISTORY DURING EIGHTIETH AND EIGHTY-FIRST CONGRESSES

A fur-labeling bill was introduced by Mr. O'Hara in the Eightieth Congress (H. R. 3734). Hearings were held on this bill by your committee on April 6 and 7, 1948. The bill was reported favorably with amendments (H. Rept. No. 2004, 80th Cong.).

During the Eighty-first Congress, new fur-labeling bills were introduced by Mr. O'Hara and Mr. Sadowski (H. R. 97 and H. R. 3755, respectively). Hearings were held on these two bills by your committee on May 11, 12, and 13, 1949. As a result of these hearings, a clean bill (H. R. 5187) was introduced by Mr. O'Hara, which was reported favorably by your committee (H. Rept. No. 919, 81st Cong.). H. R. 5187 passed the House on July 14, 1949. Hearings were held in the Senate on H. R. 5187, and it was reported favorably by the Senate Committee on Interstate and Foreign Commerce (S. Rept. 3278, 81st Cong.).

COMMITTEE AMENDMENTS

The bill here being reported to the House (H. R. 2321), as introduced, is substantially identical with the bill (H. R. 5187, 81st Cong.) passed by the House during the Eighty-first Congress.

The purpose of the amendments on pages 5, 7, and 8 is to remove from the bill provisions which would have permitted the use, in the labeling, advertising, or invoicing of a fur or fur product, of the name of any animal or animals other than the animal or animals from which the fur or fur product was produced, if such name was preceded by the words "Processed to simulate". As a result of these amendments, the bill will require that the labeling, advertising, or invoicing show only the name or names of the animal or animals from which the fur or fur product was produced. The committee feels that the objective of this bill of promoting truthful advertising, invoicing, and labeling of furs and fur products will be substantially furthered by these amendments.

The amendment on page 5 is merely to make it entirely clear that freight forwarders will get the benefit of the exemption granted to carriers.

SECTION BY SECTION EXPLANATION OF THE BILL AS AMENDED

Section 1 provides for a short title of the act which is "Fur Products Labeling Act."

Section 2 of the act contains definitions of terms used, including "commerce," "fur," "used fur," "waste fur," "fur products," and "invoice."

Section 3 declares that the marketing in commerce of any fur product that is misbranded or falsely or deceptively advertised and invoiced, shall be unlawful. In addition, the marketing in commerce of any furs that are falsely advertised or invoiced, shall be unlawful. Finally, the bill makes unlawful the marketing in commerce of any fur product that is misbranded or falsely or deceptively advertised or invoiced if such fur product has been made in whole or in part of fur which has been shipped and received in commerce. The mutilation of any label attached to a fur product is made unlawful but the section permits any person marketing fur products, in commerce, to attach a substitute label conforming to the requirements of the act and on such label he may set forth his own name in lieu of the name of the manufacturer. A person substituting a label is required to keep such records as will show the information set forth on the label that he removed and the name of the person from whom such fur product was received. This section exempts carriers, including freight forwarders, from operation of the act.

Section 4 provides that a fur product shall be misbranded if it is falsely or deceptively labeled or if a label is not affixed that does not show:

(1) The name of the animal producing the fur; (2) the name or identity of the manufacturer, shipper, or seller; and (3) the fact that a fur product contains used fur, that the fur is bleached or dyed, or that the fur product is made of waste fur or less valuable parts of the pelt, if any of these are the case. The section also provides that the name of no other animal except the animal that produced the fur shall appear on the label.

Section 5 provides that a fur product or fur shall be falsely advertised if it does not reveal the true English name of the animal producing the fur; and the fact, if such is the case, that it contains used fur, or that the fur is bleached or dyed, or that the fur product is made of waste fur or less valuable parts of the pelt. It also provides that the name of no other animal except that which produced the fur shall appear on the label. This section also makes unlawful the false invoicing of a fur product or fur, and provides that failure to furnish an invoice setting forth the information required by the act shall be considered false invoicing. It further provides that the name of no other animal shall appear on the invoice except the name of the animal that produced the fur.

Section 6 of the act has to do with imported fur products and furs, and provides for their exclusion under certain circumstances. This section also provides that the Secretary of the Treasury may require additional information under regulations prescribed by him.

Section 7 provides for the establishment of a fur products name guide which is to be issued within 6 months after the date of enactment of the act, and provides for the cooperation of the Departments of Agriculture and Interior in preparing such guide. Provision is

also made for amendment of the guide from time to time. Section 7 further provides that if the name of the animal set forth in the fur-products name guide connotes a geographical origin or significance other than the true country of origin of such animal, the Commission may require that such name be accompanied by a qualifying statement which will eliminate any confusion or deception as to the true country of origin of such animal. Where no true English name exists for an animal, the fur-products name guide is to set forth the name of the animal by which it can be properly identified in the United States.

Section 8 of the act provides that the Federal Trade Commission is to be the enforcing agency and shall provide the necessary rules and regulations. Provision is also made for inspections and tests, and that every manufacturer or dealer in fur products and furs shall maintain records.

Section 9 of the act provides for condemnation and injunction proceedings where the ordinary remedies would not be sufficient.

Section 10 provides for guaranties which may be either separate or continuing. These guaranties when relied upon in good faith would protect a person against charges under section 3 of the act.

Section 11 provides for certain criminal penalties when a willful violation occurs. Facts in such case are to be certified to the Attorney General for prosecution.

Sections 12, 13, and 14 contain provisions relating to application of existing laws, the effective date of the act (which is 1 year after enactment), and the separability clause.

FEBRUARY 16, 1951.

Hon. ROBERT CROSSER,

*Chairman, Committee on Interstate and Foreign Commerce,
United States House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: In response to your letter of February 5, 1951, enclosing a copy of H. R. 2321, Eighty-second Congress, first session, entitled "A bill to protect consumers and others against misbranding, false advertising, and false invoicing of fur products and furs," introduced on February 2, 1951, by Congressman Joseph P. O'Hara of Minnesota, and requesting any comments the Commission may care to offer concerning the proposed legislation, the following is submitted for the information of the committee.

The bill is generally modeled after the Wool Products Labeling Act of 1939. Its general objective is to protect consumers and scrupulous merchants against deception and unfair competition resulting from the misbranding, false or deceptive advertising, or false invoicing of fur products and furs, and to protect domestic fur producers against unfair competition.

The proposed legislation requires mandatory labeling of fur articles of wearing apparel and invoicing of furs moving in interstate or foreign commerce to show the name (as set forth in the Fur Products Name Guide) of the animal that produced the fur, and when such is the case the fact that the garment contained used fur or that the furs are bleached or dyed or that the fur product is composed of inferior pieces such as paws, tails, bellies, or waste fur. It further requires that when fur products or furs are advertised in commerce that such important facts also be truthfully disclosed. Animal names other than the true name of the animal from which the fur was taken are prohibited from use on required labels, advertising, and invoicing "unless such name or names are preceded by the words 'processed to simulate' and the fur product has been so processed." (It is understood that the Commission under power granted in section 8 (b) of the act to prescribe rules and regulations governing the manner and form of disclosing information required by this act would have authority to control possible abuses which might arise under the above qualifying provision and thus afford necessary consumer protection.) The proposed legislation makes subject to its provisions not only those marketing fur products in interstate commerce, but those marketing fur products made in whole or in part of fur which has been shipped and received in commerce. The use of substitute labels is also provided for by those subject to the affirmative requirements of the bill.

In addition, the bill provides for the establishment and maintenance by the Federal Trade Commission, with the assistance and cooperation of the Departments of Agriculture and Interior, of a Fur Products Name Guide setting forth the true English names, or other appropriate animal names, to be used in labeling, invoicing, and advertising the respective furs from various animals. In connection with the name of an animal (as set forth in the Fur Products Name Guide) which connotes a geographical origin or significance other than the true country or place of origin of such animal, the proposed legislation provides that the Commission may require in connection therewith such qualifying statement as is necessary to prevent confusion or deception. (This provision is considered most necessary inasmuch as the proposed legislation in its present form contains no "country of origin" requirements.) The bill further provides for administration by the Federal Trade Commission in accordance with administrative procedure long operative in Commission work under comparable statutes; namely, the Federal Trade Commission Act and the Wool Products Labeling Act. It also provides for temporary injunctive relief as well as for actions in rem for seizure of misbranded fur products and furs which are in violation of the act. Separate or continuing guaranties are provided for where desired, for the protection of subsequent resellers. The use of false guaranties is declared unlawful. Together with the provisions for administrative enforcement by the Commission, the bill also provides for misdemeanor proceedings in district courts on behalf of the United States against willful violators of its provisions. The administrative enforcement provisions incorporated in the bill are of the type customarily found advisable and appropriate in legislation of this character and experience has proven such procedure most effective and of the type least burdensome.

Need for the proposed legislation is predicated upon the ever-increasing number of foreign names and fictitious designations used in advertising and in describing fur products and furs, which designations often appear quite confusing and misleading to potential purchasers as to the kind and quality of fur being offered for sale.

The proposed legislation would not only protect the consumer against such inroads of deception and false and misleading advertising but would also afford protection to our domestic infant fur-farming industry that it may be shielded from unscrupulous competition arising out of the use of false and glamorized designations for cheap imported furs.

While furs are natural products, they are peculiarly susceptible to dyeing and other manipulation and processing which tend to change their appearance. Such manipulations are commonly undertaken for the purpose of simulating more expensive furs in appearance. This practice makes it easily possible for the purchasing public to be misled and deceived, and the bill under consideration will go far toward protecting the unsuspecting consumers and dealers.

The bill goes considerably further in providing public protection in connection with the fur industry than appears possible under existing law and the Commission's Trade Practice Rules for the Fur Industry, two copies of which are enclosed herewith. While the operation of the Trade Practice Rules has afforded the public and business a material measure of protection, the bill would make it possible to effect even a wider and more thorough and complete protection. Thus, it is believed that the objectives of the bill would provide a valuable supplement to existing authority.

In view of the circumstances and prevailing conditions in the fur industry, it is believed that legislation of the type provided by the bill under consideration would be beneficial and in the public interest.

The administration of the proposed statute lends itself to be readily integrated with the Commission's duties under the Wool Products Labeling Act. With such in mind, its administration and enforcement would be considerably more economical than otherwise possible. Under such condition it is estimated that the cost of administering the act on a fiscal-year basis would approximate \$75,000.

The Commission wishes to advise that members of its staff who are fully acquainted with the provisions of the bill will be available for any services they may be able to render the committee.

By direction of the Commission.

Sincerely yours,

JAS. M. MEAD, *Chairman.*

N. B.—Pursuant to regulations, this report was submitted to the Bureau of the Budget on February 16, 1951, and on February 20, 1951, the Commission was advised that there would be no objection to the submission of the report to the committee.

W. A. AYRES, *Acting Chairman.*

DEPARTMENT OF AGRICULTURE,
Washington, D. C., April 12, 1951.

HON. ROBERT CROSSER,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.*

DEAR MR. CROSSER: This is in reply to your request of February 5, 1951, for a report on H. R. 2321, a bill to protect consumers and others against misbranding, false advertising, and false invoicing of fur products and furs.

The general intent of this bill is to guarantee the ultimate consumer and the handlers of furs and fur articles the kind of merchandise for which they pay. The stipulations are believed to be reasonable and generally workable. Under section 7 of the bill, the Department of Agriculture and the Department of the Interior are to assist and to cooperate with the Federal Trade Commission in preparing and keeping current the Fur Products Name Guide.

This bill is identical with H. R. 5187, Eighty-first Congress, which was passed by the House and on which the Department made a favorable report. The Department has also made favorable reports on similar bills, H. R. 2099 and S. 508, Eighty-second Congress, and has recommended amendments to section 7 of H. R. 538 which would provide for appropriate identification of animals that have names connoting a place of origin other than the true origin, in order to prevent confusion and deception.

There would be no additional cost to this Department if the bill should be enacted. Our present force is sufficient to assist the Federal Trade Commission.

The Department recommends that the bill be passed.

The Bureau of the Budget advises that from the standpoint of the program of the President there is no objection to the submission of this report.

Sincerely yours,

CHARLES F. BRANNAN, *Secretary.*

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